

1 BILL NO. G- 81-05-29

2 GENERAL ORDINANCE REPEALING GENERAL  
3 ORDINANCE NO. ~~G-80-07-01~~ AS AMENDED.

~~G-81-03-43~~ AS AMENDED

Correction

4 WHEREAS, the public streets of the City of Fort Wayne,  
5 Indiana, are utilized for the movement of vehicular traffic,  
6 and it is in the highest standards of public safety that  
7 pedestrians, particularly children, should be protected  
8 against the movement of vehicular traffic in the public  
9 streets; and,

10 WHEREAS, the Common Council believes that the safety  
11 of children in this community is of the utmost importance;  
12 and,

13 WHEREAS, operation of "motorized food vending vehicles"  
14 as defined in General Ordinance No. ~~G-80-07-01~~ as amended  
15 merely serves to invite children into the public streets; and, correction

16 WHEREAS, "motorized food vending vehicles" should be  
17 restricted to purveying their sales in park areas only of  
18 public parks, exclusive of public streets and highways, and  
19 private property but never on public streets, public  
20 highways or public alleys.

21 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
22 THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

23 SECTION 1. General Ordinance No. ~~G-80-07-01~~ as amended  
24 is hereby repealed in its entirety. correction

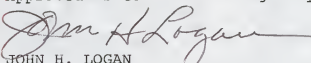
25 SECTION 2. "Motorized food vending vehicles", defined  
26 as self-propelled motorized vehicles or any trailer attached  
27 thereto selling food items such as ice cream, candy and  
28 other food products, shall be permitted to purvey and sell  
29 their products on private property or in public parks or  
30 other public or private property which is not in any public  
31 street, public highway or public alley in the City of  
32 Fort Wayne, Indiana.

SECTION 3. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

COUNCILMAN

  
COUNCILMAN

Approved as to form and legality.

  
JOHN H. LOGAN  
Attorney for the Common Council

Read the first time in full and on motion by \_\_\_\_\_,  
seconded by \_\_\_\_\_, and duly adopted, read the second time  
by title and referred to the Committee \_\_\_\_\_ (and the City  
Plan Commission for recommendation) and Public Hearing to be held after  
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,  
Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_.M.,E.S.T.

DATE: \_\_\_\_\_

CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Schomburg,  
seconded by Burns, and duly adopted, placed on its  
passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>3</u>	<u>4</u>	_____	<u>2</u>	_____
<u>BRADBURY</u>	_____	<u>X</u>	_____	_____	_____
<u>BURNS</u>	<u>X</u>	_____	_____	_____	_____
<u>EISBART</u>	_____	<u>X</u>	_____	_____	_____
<u>GiaQUINTA</u>	_____	<u>X</u>	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	<u>X</u>	_____
<u>SCHMIDT</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	<u>X</u>	_____
<u>TALARICO</u>	_____	<u>X</u>	_____	_____	_____

DATE: 5-25-82

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,  
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)  
(APPROPRIATION) ORDINANCE (RESOLUTION) NO. \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

ATTEST:

(SEAL)

CHARLES W. WESTERMAN - CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on  
the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of  
\_\_\_\_\_ o'clock \_\_\_\_\_.M.,E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_.M.,E.S.T.

WIN MOSES, JR. - MAYOR

Read the first time in full and on motion by Schomburg, seconded by GiaQuinta, and duly adopted, read the second time by title and referred to the Committee City-County Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 6-2-81

Charles W. Westerman  
CHARLES W. WESTERMAN  
CITY CLERK

Read the third time in full and on motion by \_\_\_\_\_, seconded by \_\_\_\_\_, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____	_____
<u>BURNS</u>	_____	_____	_____	_____	_____
<u>EISBART</u>	_____	_____	_____	_____	_____
<u>GiaQUINTA</u>	_____	_____	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	_____	_____	_____	_____	_____
<u>SCHOMBURG</u>	_____	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: \_\_\_\_\_

CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) No. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

ATTEST: (SEAL)

CHARLES W. WESTERMAN - CITY CLERK

\_\_\_\_\_  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this \_\_\_\_\_ day of 19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

\_\_\_\_\_  
WINFIELD C. MOSES, JR.  
MAYOR

BILL NO. \_\_\_\_\_

G-81-05-29

(Revised)

REPORT OF THE COMMITTEE ON CITY- COUNTY LIAISON

WE, YOUR COMMITTEE ON City-County Liaison TO WHOM WAS REFERRED AN  
ORDINANCE GENERAL ORDINANCE REPEALING GENERAL ORDINANCE NO  
G-81-03-43 AS AMENDED

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

ROY J. SCHOMBURG - CHAIRMAN

JOHN NUCKOLS - VICE CHAIRMAN

PAUL M. BURNS

MARK E. GIAQUINTA

BEN A. EISBART

*Roy J. Schomburg*

*John Nuckols*

*Mark E. Giaquinta*

5-25-80 CONCURRED IN  
DATE \_\_\_\_\_ CHARLES W. WESTERMAN, CITY CLERK

*Holm*  
*Oct 20*  
*[Signature]*  
*[Signature]*  
*[Signature]*

BILL NO. G-81-05-29

REPORT OF THE COMMITTEE ON CITY-COUNTY LIAISON

WE, YOUR COMMITTEE ON City-County Liaison TO WHOM WAS REFERRED AN  
ORDINANCE GENERAL ORDINANCE REPEALING GENERAL ORDINANCE NO.

G-81-03-43 AS AMENDED

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HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE                      PASS.

ROY J. SCHOMBURG, CHAIRMAN

\_\_\_\_\_

BEN A. EISBART, VICE CHAIRMAN

\_\_\_\_\_

PAUL M. BURNS

\_\_\_\_\_

JAMES S. STIER

\_\_\_\_\_

VIVIAN G. SCHMIDT

\_\_\_\_\_



## THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

Room 122 — Roy J. Schomburg — Councilman, 3rd District

November 9, 1981

To: Fort Wayne Council Members

Subject: Removal of unneeded motorized food vending machines  
from the streets.

Decades ago the retail merchants were located in small business areas or in the center of cities. There were various types of "peddlers", as they were called, who traveled the outlying areas selling their merchandise. In today's market nearly all of the street vending has stopped due to the convenience of retail merchants of all types located within walking distance of most homes and businesses. These retail outlets support heavy taxes as well as being competitive and convenient all year long.

I have felt that the "Eisebart Ice Cream Ordinance" was a step forward for child safety. I also feel, as do many others, that this ordinance does not go far enough. Our streets are filled with high powered vehicles. These streets are heavily trafficked and congested. Considering these are thoroughfare's, the traffic should not be slowed or blocked. In turn, our children are small and not easily seen by the passing motorists. In their excitement they are not always cautious and dart out in front of vehicles. These two situations are NOT compatible.

Street peddlers have all but disappeared from our streets and highways, with the exception of the "Summertime Ice Cream Wagons". These wagons cause added worry and safety problems for the parents of our growing children.

After many telephone calls and letters from concerned parents, I introduced Ordinance 80-05-29 to further protect the safety of our children. This ordinance however, was held up at the request of our local Chamber of Commerce and out of respect for the Eisebart ordinance, which was passed as a trial run. Now with the trial vending ordinance over, Ordinance G-81-05-29 is presented to you for your consideration and passage.

I am enclosing a copy of Ordinance G-81-05-29, copies of newspaper clippings referencing this situation, both an old and recent letter from the Chamber of Commerce and a typical letter which is similar in nature to many I have received from concerned parents and citizens.

Therefore, I now leave the outcome of this ordinance to you, our City Council.

Sincerely,

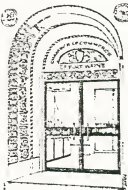


Roy J. Schomburg

RJS:da  
Enclosures

# GREATER FORT WAYNE CHAMBER OF COMMERCE

826 EWING STREET



PHONE 219/424-1435

PAUL E. SEYBERT, *President*  
WALTER P. HELMKE, *President-Elect*  
RICHARD J. GALLI, *Treasurer*  
DONALD D. DOXSEE, *Secretary*  
EDWIN C. METCALFE, *Past President*  
D. J. PETRUCELLI, CCE,  
*Executive Vice President*

FORT WAYNE, INDIANA 46802

DATE: 4 June 1981  
TO: Fort Wayne Common Council Members  
FROM: Jim Rinehart, Director  
Business/Government Division  
SUBJECT: G - 81-05-29 "Ice Cream Vehicle Vendor Repealer"

Since it will be impossible for a representative from the Greater Fort Wayne Chamber of Commerce to be present during the hearing for this proposed legislation, it is necessary to communicate by this letter.

The intent of Councilman Roy Schomberg in his proposed ordinance is as honorable as the intent of the newly passed "Ice Cream Ordinance," both pieces of legislation concerns the safety of our community's children.

However, it was intended that the newly passed "Ice Cream Ordinance" would be, in effect, a "sunset" ordinance, and thus would be subject to review in one year from its passage. It has been agreed upon, verbally, by both the Common Council and the Chamber Representative, that the ordinance would be watched closely for this year and changes or repeal would follow if deemed so necessary.

The Chamber cannot support Mr. Schomberg's proposed legislation at this time and ask that after the "trial period" for the present ordinance is concluded, barring any intervening emergencies concerning the effects of the present ordinance, Mr. Schomberg's proposed legislation will be studied and possibly considered.

cc: Paul Seybert, President  
Greater Fort Wayne Chamber of Commerce

Walter Helmke, President-Elect  
Greater Fort Wayne Chamber of Commerce

D. J. Petrucci. Executive Vice President  
Greater Fort Wayne Chamber of Commerce

465-8841  
462-7422



# GREATER FORT WAYNE CHAMBER OF COMMERCE

826 EWING STREET



PHONE 219/424-1435

WALTER P. HELMKE, *Chairman of the Board*  
JAMES R. LOOMIS, *Chairman-Elect*  
RICHARD J. GALLI, *Treasurer*  
DONALD D. DOXSEE, *Secretary*  
PAUL E. SEYBERT, *Past Chairman of the Board*  
D. J. PETRUCCELLI, *CCE, President*

FORT WAYNE, INDIANA 46802

4 November 1981

Mr. Roy Schomburg  
Fort Wayne City Council  
City/County Building  
1 Main Street  
Fort Wayne, Indiana 46802

Dear Roy:

It is that prescribed time of the year to review the "Ice Cream" Ordinance and to see if it needs to be reinstated, rectified or altered in any way, to meet the actual situation at hand.

The Chamber of Commerce has in the past opposed any undue form of traffic hinderence in the city of Fort Wayne. This stance has not changed.

Therefore, after reviewing your proposed legislation G-81-03-43, we can safely say that it does not prevent free enterprise from functioning, only regulating a safety factor involved, nor does it endanger but rather aids in the protection of the lives of our great community's children, and also it helps to prevent a multitude of possible law suits from potential accidents involving children, moving vehicles, etc.

The Chamber thus supports this fine piece of legislation and encourages its passage without delay.

Respectfully Submitted,

James J. Rinehart, Vice President  
Government Division

cc: Walter Helmke, Chairman of the Board  
Thomas Blee, Vice Chairman  
Bere Clarke, Co-Vice Chairman  
D. J. Petruccelli, CCE, President

# Ice cream truck bill wins council's favor

By STEVEN THOMMA  
Staff Writer

The Fort Wayne City Council passed its long-debated ice cream truck ordinance Tuesday night, nearly a year after it was first introduced and just hours after a 7-year-old boy was hit by a car as he ran across the street to a stopped ice cream truck.

The boy, Marcus Anderson, was hit as he ran to the truck stopped across the street from his home at 2802 Lillie St. He suffered a broken left leg and was taken to St. Joseph's Hospital where he was reported in fair condition.

The ordinance, if signed into law by Mayor Win Moses Jr., would require motorists to stop when approaching a stopped ice cream truck. The Anderson boy was struck by a car traveling between 10 and 15 miles an hour.

"That's not to say if this ordinance had been in effect that accident would not have happened," said its sponsor, 4th District Democrat Ben Eisbart. But he added similar laws have reduced by as much as 74 percent the accident rate involving children running to or from ice cream trucks.

The ordinance includes a ban on ice cream trucks during the rush hour — between 5 and 6 p.m. — and Democratic Councilman-at-large Paul Mike Burns said the Anderson boy would not have been injured had the ban been in effect earlier.

The 5 p.m. accident Tuesday was the second involving an ice cream truck since Eisbart started pushing for the bill in the summer of 1980. In June 1980, 4-year-old Robyn S. Barnhill suffered skull and abdominal injuries when she was hit by a car. She had run around the rear of a stopped ice cream truck and was hit.

Officer Gary Stevens said the driver of the car Tuesday afternoon, Alan Wilson, 60, of 8433 Fantasia Way, could not have avoided the accident. The Anderson boy darted out from between two parked cars and was only several feet in front of the car at the time, Stevens said.

After being treated for the broken leg, Anderson was examined for possible fractures of his pelvis and upper arm, a hospital spokeswoman said.

See COUNCIL, Page 8C.

Eisbart said after the 6-3 vote approving the ordinance he was pleased the intent of the measure remained intact during numerous compromises to get it passed. One compromise in the council session Tuesday night cut the ban on street sales to the 5 to 6 p.m. slot. The bill had proposed to ban street sales between 3 and 6 p.m.

But Terry Staker, Fort Wayne manager of Renwald Ice Cream, told the council that three-hour ban would "put us out of business." The company, the largest street ice cream vendor in the city, does most of its business between 3 and 8 p.m., he said.

Three council members voted against the measure — 1st District Democrat John Nuckols, 3rd District Republican Roy Schomburg and 6th District Democrat James Stier. Schomburg said he voted against the bill because it did not go far enough.

"Ice cream vendors are a thing of the past and should be abolished entirely," he said.

## TRUCKS BANNED FROM 5 TO 6 P.M.

# Ice Cream Vending Bill

By JERRY GRAFF

A last-minute compromise paved the way for the city council's approval Tuesday night of an ordinance limiting selling hours and requiring motorists to stop for ice cream vending trucks.

The compromise bans operation of the trucks on city streets from 5 to 6 p.m. when rush-hour traffic is heaviest.

Prior to amendment, the ban was from 3 to 6 p.m. However, a representative of Renwald's, one of the largest vending services in the city, told the council the 3 to 6 p.m. ban would put the firm out of business.

Despite the amendment, the bill was approved by only a 6-3 vote, with Councilmen Roy Schomburg and James Stier joining president John Nuckols in voting no.

Nuckols supported the 3-6 p.m. ban. "Are we protecting human lives or the (ice cream vending)

business?" asked the council president.

Schomburg said, "The only ordinance that should be passed is one to remove all of them (vendors) from the streets."

Stier said he was voting no because he feared police might spend too much time checking vendors for compliance with the ordinance.

He said police might be drawn away from their most important

## Car Hits Boy Running to Ice Cream Truck

A 7-year-old boy is in fair condition today at St. Joseph's Hospital after being struck Tuesday evening by a car while on his way out to an ice cream truck.

Marcus Anderson, son of Edward Anderson, 2802 Lillie St., ran out from between two cars on the east side of Lillie Street in front of his home, and was struck by a car driven by Allan Wilson, 61, 8433 Fantasia Way, according to police reports.

The boy's left leg was fractured.

job — stopping crime. Stier has been a frequent critic of the city's failure to have sufficient police officers to patrol neighborhoods, particularly his 6th District.

Highlights of the ice cream vending bill are:

- Vendors are limited to selling on city streets with a posted speed limit of 30 mph or less. Vending is prohibited on streets where parking is prohibited on one or both sides or on one-way streets.

- Trucks must display a sign saying "Stop, Proceed with caution" when vending. The sign must have flashing, warning lights.

- Motorists must stop and then proceed with caution when coming upon a truck that is halted and selling ice cream or related items.

- Vending may not begin until 9 a.m. daily.

Passage was a victory for the bill's sponsor, 4th District Councilman Ben Eisbart. He had sought a similar bill last year, but it failed to win approval.

Approved

The News-Sentinel, May 13, 1981

# Protecting the Vendors

EDITORIAL

A majority on the Fort Wayne City Council Tuesday night caved in to the city's ice cream vendors in passing an ordinance to protect the peddlers' accustomed street sales. Mayor Moses should show courage, and genuine concern for the safety of the city's children, by vetoing the pro-vendor ordinance.

What started out as an attempt by 4th District Councilman Benjamin Eisbart to protect young children from accidents resulting from on-the-street ice cream purchases turned into a bill almost made to order for the peddlers. The measure would empower street vendors to install stop signs on their vehicles, and to force city traffic to stop and then proceed slowly whenever a sale was being attempted.

The council's surrender to the ice cream industry was made clear when the bill was amended to ban street sales only from 5 to 6 p.m. instead of from 3 to 6 p.m. All it took was a statement from the manager of the city's main vending firm that the 3 to 6 ban would "put us out of business." Surely the council members do not think there is relatively light traffic on the city's streets from 4 to 5 p.m., and that children can safely buy ice cream on the streets then.

Was the cutback to a one-hour ban done with the children's safety in mind? Obviously not. Was the approval of rush-hour sales made with the city's thousands of motorists in mind? Of course not. The one hour that was chosen even appears to be one the vendors could most easily do without, for many children are just sitting down at the supper table shortly after 5 p.m., and thus wouldn't be buying ice cream anyway.

The ineffectiveness of the ordinance was vividly demonstrated on the city's streets shortly before the council sold out to the vendors' pressure. For seven-year-old Marcus Anderson

of 2802 Lillie St. was struck by a slow-moving car as he darted into the street to buy ice cream. A policeman on the scene said the motorist, traveling at about 10 miles an hour, could not have avoided hitting the boy. The ordinance would permit slow traffic movement anyway, and the Anderson accident likely would not have been avoided had the ordinance been in force and observed.

The implication of the ordinance is that if a child is hit, it will be the motorist's fault. But the fact a motorist can drive cautiously past a sale scene and still seriously injure a child indicates the short-sightedness of the measure. The real liability in such accidents should rest with the vendor, who drew the child into the street in the first place. Letting vendors off the hook by having motorists drive slowly doesn't spare children from being injured or killed.

Councilman Eisbart's intentions are commendable. But plain-spoken 3rd District Councilman Roy Schomburg seemed to have a better idea for really protecting the children when he said, "Ice cream vendors are a thing of the past and should be abolished entirely."

The council might not want to abolish the vendors directly, but it could act more effectively against dangerous street sales by firmly placing civil and criminal liability on the peddlers. Then the vendors' insurance companies would determine just what is safe enough to justify risking million-dollar law suits.

The ordinance council passed misses its target. It does more to protect ice cream vendors than the city's children. And it will result in countless traffic snarls, which could injure other persons than children. Mayor Moses owes all his constituents a favor — not just the ice cream peddlers. He should veto the ordinance and tell the council to get to work on one which addresses the real problem.

ICE CREAM Vendors

The council just spend weeks on an ice cream truck ordinance, before it finally caving in to the vendors and freeing them to stop Fort Wayne traffic so they can draw children into the streets. That ordinance, besides being ineffectual to enforce, it was passed when a child was hit by a slow-moving car and the driver was not at fault. Mayor Moses should veto the ice cream ordinance and tell the council to come up with a bill putting civil and criminal liability on the vendors — the only sure way to protect the city's children from the peddlers' attractive nuisance.)

The council...

May 21-1981

One for the

James E. Williams, Editor  
Sentinel Founded in 1933

Fort Wayne News-Sentinel Thurs., May 21, 1981  
One News-Sentinel  
Halene R. Foellinger, Publisher  
John V. Ankenbruck, Jr.  
New Founded in 1918  
The News-Sentinel Founded in 1918



# Ice cream truck ban sought

By STEVENTHOMMA  
Staff Writer

City Councilman Roy Schomburg is trying to derail the city's new ice cream truck ordinance just days before it is scheduled to go into effect, proposing instead that ice cream trucks be banned from Fort Wayne streets.

The 3rd District Republican will introduce an ordinance at tonight's council meeting proposing both the repeal of the law regulating ice cream trucks and traffic and the substitution of a ban on ice cream sales on public streets.

The ice cream ordinance was signed

into law by Mayor Win Moses Jr. on May 22 and is scheduled to go into effect Saturday. It would require motorists to stop when approaching a pulled-over ice cream truck and then proceed with caution.

The council passed the bill May 12 after nearly a year of debate. Schomburg was one of three council members voting against the bill, saying it did not go far enough to protect children from accidents and that the trucks should be prohibited from doing business on city streets.

"They shouldn't be on the streets at

all," Schomburg said Monday. "They're too dangerous. They're a thing of the past, and they should be abolished. Kids will run to the trucks, and they don't think."

"Do you think the mothers want to pay twice as much for ice cream and have their children run out whenever they're charmed by the jingle bell?"

Schomburg's bill, prepared by Council Attorney John Logan, would repeal the ice cream truck regulation bill and allow ice cream trucks only in parks or on private property. He said he had not yet read the bill and had not lobbied other council members for support.

The bill scheduled to go into effect Saturday will:

- Require ice cream trucks to show a yellow stop sign on its side whenever the driver pulls to the curb to sell ice cream. A proceed-with-caution sign also must be displayed.

- Require motorists to come to a complete stop at least 10 feet from ice cream truck showing the sign and then to proceed at less than 15 miles an hour. A motorist must yield to anyone walking to or from the ice cream truck.

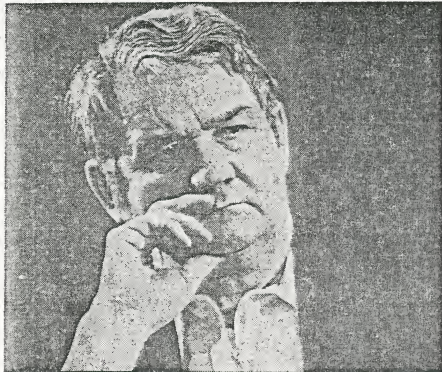
- Prohibit ice cream truck drivers from backing up to make a sale.

- Require the drivers to sell only from the curb side of the truck.

- Prohibit ice cream sales from streets where parking is banned on one or both sides; on one-way streets; or on streets where the speed limit is above 30 miles an hour.

- Prohibit ice cream truck sales before 9 a.m. and between 5 and 6 p.m.

The requirements to stop when approaching an ice cream truck do not apply when the motorist is in the opposite lanes of a divided highway. The bill provides fines of up to \$50 for violations by either the ice cream truck driver or the motorist.



JOURNAL-GAZETTE FILE PHOTO

426 7487 Councilman Roy Schomburg

12A FORT WAYNE NEWS-SENTINEL Tues., June 2, 1981

## The News-Sentinel A Better Way

Third District City Councilman Roy Schomburg has come up with an alternative for dealing with the dangerous business of children buying ice cream from vendors on Fort Wayne's streets. The councilman simply would ban the trucks from public streets, and have the sales confined to parks and private property.

The council passed and Mayor Moses signed an ordinance proposed by Fourth District Councilman Benjamin Eisbart which would have the ice cream vendors install stop signs on their vehicles, forcing city traffic to stop and proceed slowly while street sales were being attempted.

While the Eisbart bill is well-intentioned, in trying to promote safety for the city's children, it misses the mark. An accident the very night the council passed the bill showed how ineffective the letter of the law will be. A child was hit by a slow-moving car in the street, and police indicated the driver was not

at fault and could not have missed the child. Obviously, then, the responsibility should lie with the vendor for attracting the child into the street in the first place.

As long as ice cream trucks use the same streets motorists use, there will be serious dangers of accidents whenever the vendors try to peddle their wares. Thus the Schomburg ordinance gets more directly to the heart of the matter; it would insist sales be conducted in places where cars don't ordinarily go. An added bonus of Mr. Schomburg's plan is that streets would be reserved for the expeditious moving of traffic, which, after all, is their purpose.

The Schomburg ordinance is better than the one just passed. The city has a responsibility to control attractive nuisances such as the vendors, and should not let the peddlers contribute to traffic congestion and risk children's safety by tying up the city's streets to conduct their business.

June 2-1981

August 14, 1931

# The News-Sentinel

Helene R. Foellinger, Publisher

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## An Ineffective Ordinance

Fort Wayne residents have the chance to get rid of a nuisance piece of legislation and get it replaced with a sound one. The city council's ice cream truck ordinance is due to expire in October unless extended. Common sense predicted — and now experience shows — the ordinance just doesn't do enough to protect the city's children from the dangers of ice cream sales on the streets.

Councilman Benjamin Eisbart introduced the bill to the council last year, and after numerous amendments, it was passed this year. While the ordinance purports to protect children, it does more to protect ice cream vendors' privileges on the city streets. Motorists are required to stop and then proceed with caution as peddlers attempt to draw children into the streets.

An accident the day council passed the bill indicated even strict enforcement of it would not make the sales safe. For a child was hit by a slow-moving car while he was patronizing a vendor. A police officer said the motorist wasn't at fault.

If motorists can abide by the letter of the law and still maim and kill youngsters, clearly the law isn't good enough. Further evidence against the law is the fact a newsman who spent two hours with a vendor recently reported half the passing motorists ignored the stop sign on the ice cream truck, and sped on by.

The law isn't being enforced. Strictly abiding by it doesn't ensure children's

safety. Fort Wayne's children daily are being exposed to dangerous rendezvous with street vendors. Motorists who do obey the law are being delayed while the peddlers try to sell their wares.

Councilman Eisbart indicated he wants public comment on the ordinance by October. The evidence is clear that the main beneficiaries of the law are ice cream vendors and their employers. In fact, the original ordinance was handed to Mr. Eisbart by the manager of the city's largest ice cream vending company — not by parents of children who do business with the peddlers. Mr. Eisbart introduced the bill after an accident had publicized the dangers of street sales. It is unfortunate the ice cream peddler got to him before the councilman had a chance to get broader input from the community. But the peddler's solution is no solution.

The Eisbart ordinance may suggest the city council is concerned about protecting the city's children; but actually it only serves as a smokescreen protecting the real cause of the danger. If the council members really want to protect the children, they should ban the peddlers from public streets. Councilman Roy Schomburg has a bill which would do that, but it has been bottled up in committee. Mr. Eisbart had good intentions, but his bill isn't working. The council had best let the current ordinance die in October and come up with a bill which really protects the children.

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5-13-81

Dear Roy Schamburg:

I am writing this letter in regards to the article that was in this morning paper. I am glad that some of our people aren't as money hungry as others are. I think they shouldn't even aloud ice cream trucks anywhere.

We have two kids

5/13/81

Dear Roy Schamburg:

I am writing this letter in regards to the article that was in this morning's paper. I am glad that some of our people aren't as money hungry as others are. I think they shouldn't even aloud ice cream trucks anywhere.

We have two kids of our own and I wouldn't want anything happen to them. They are 4 and 6 years old. We live on Kelly Drive there are a lot of kids on our block and a half long. And if the truck doesn't stop on Hoffman Street they stop on our street, then you have all of the kids here. The kids around here are between 2 and 12 years old. Of course the kids don't even look before they even cross. I hope our kids knowns better because they were taught to let us know if there is any ice cream truck here.

We are a residential area you can't have child care here so why would you want a ice cream truck here. They belong in the business area not in the residential area. Is it or is it not illegal to have a sign put up and say no ice cream trucks aloud here on this block. If the law is passed traffic will be back up everywhere. You probably have your own kids to you know how long it takes them to make up there mind. And then they will be more problems then, them selling ice cream.

The really stupid thing is you can go to the store and buy everything cheaper than you can on the truck.

I would like to know where the parents were when the 4 year old got hit by a car.

The seven year old boy probably would've been hit by a car anyhow. Because they don't look before they cross. We had a neighbor boy last year hit by a car do you think he learned anything. No he still crosses the street without looking. The driver of the car is the one that suffers the most. But why should we suffer or lose our kids because they want to come into the residential areas. Just to sell expensive ice cream.

I hope you understand my letter thanks again for the way you voted.

Mrs. Max E. Baumgartner  
1629 Kelly Drive  
Fort Wayne, Indiana 46808

7  
1 BILL NO. G- 81-05-29

2 GENERAL ORDINANCE REPEALING GENERAL  
3 ORDINANCE NO. G-80-07-01 AS AMENDED.

4 WHEREAS, the public streets of the City of Fort Wayne,  
5 Indiana, are utilized for the movement of vehicular traffic,  
6 and it is in the highest standards of public safety that  
7 pedestrians, particularly <sup>small</sup> children, should be protected  
8 against the movement of vehicular traffic in the public  
9 streets; and,

10 WHEREAS, the Common Council believes that the safety  
11 of children in this community is of the utmost importance;  
12 and,

13 WHEREAS, operation of "motorized food vending vehicles"  
14 as defined in General Ordinance No. G-80-07-01 as amended  
15 merely serves to invite children into the public streets; and,

16 WHEREAS, "motorized food vending vehicles" should be  
17 restricted to purveying their sales in park areas only of  
18 public parks, exclusive of public streets and highways, and  
19 private property but never on public streets, public  
20 highways or public alleys.

21 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
22 THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

23 SECTION 1. General Ordinance No. G-80-07-01 as amended  
24 is hereby repealed in its entirety.

25 SECTION 2. "Motorized food vending vehicles", defined  
26 as self-propelled motorized vehicles or any trailer attached  
27 thereto selling food items such as ice cream, candy and  
28 other food products, shall be permitted to purvey and sell  
29 their products on private property or in public parks or  
30 other public or private property which is not in any public  
31 street, public highway or public alley in the City of  
32 Fort Wayne, Indiana.